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August 16, 2022

VIA ELECTRONIC CASE FILING

Hon. Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square, Room 2201
New York, New York 10007

Re: Thomas Fitzpatrick and Arthur Caputo v. Boston Market Corporation
Case No. 1:21-cv-9618

Dear Judge Engelmayer:

We represent Defendant, Boston Market Corporation (“BMC”), in the above referenced action. We write in response to Plaintiff’s August 15, 2022 letter (Document #40).

Exhibit 1 to Docket No. 39 provided the contents of the link that, as Plaintiff’s counsel noted, is now apparently a “dead link.” We were not aware that this webpage had been taken down from the internet until we received Plaintiff’s letter. We do not know when the link was removed from the NYSDOL website.

In any event, an updated list of employers who were granted an exemption to the requirement to pay manual workers on a weekly basis was posted to the NYSDOL website. BMC is still listed as an exempt employer on the new website. That link is available here: <https://dol.ny.gov/system/files/documents/2022/08/monthlyrptinternetpostingpermissionstopaybi-monthly.pdf>.

Furthermore, although a bit technical, we note that Plaintiff’s counsel’s letter expressed that the information provided by NYSDOL was in response to a subpoena that we earlier served upon the NYSDOL and opposing counsel. We would like to correct that the information we received from the NYSDOL was instead in response to our FOIA request. (See also Docket No. 39, Declaration of Gregory B. Reilly). Because the FOIA response that we received on Friday (August 12) did not provide a letter confirming BMC’s exemption, I called the Department of Labor on Friday, August 12th and requested that that this be remedied. I also made the same request today by letter.

Hon. Paul A. Engelmayer
August 16, 2022
Page 2

Thank you for your consideration.

Respectfully Submitted,

BOND, SCHOENECK & KING, PLLC

A handwritten signature in black ink, appearing to read 'Gregory B. Reilly', with a stylized, flowing script.

Gregory B. Reilly, Esq.

cc: Josef Nussbaum, Esq. (via ECF)